

Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

FILED
JANICE K. BREWER
SECRETARY OF STATE

CHAPTER 192

HOUSE BILL 2557

AN ACT

AMENDING SECTION 36-845, ARIZONA REVISED STATUTES; RELATING TO THE REVISED ARIZONA ANATOMICAL GIFT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-845, Arizona Revised Statutes, is amended to
3 read:

4 36-845. Hospitals; required request; search and notification;
5 immunity; authorization form; definition

6 A. The person in charge of a hospital or the person's designee shall
7 establish an organ and tissue procurement for transplant protocol that
8 includes the notification of an appropriate organ procurement agency
9 ORGANIZATION, that designates hospital or organ procurement agency personnel
10 who may obtain consent to donate an anatomical gift pursuant to subsection
11 B of this section and that requires specified training for the personnel who
12 request consent. ~~An organ procurement agency shall provide this training.~~

13 B. If at or near the time of death there is no medical record that the
14 decedent has executed a document of gift or refused to make an anatomical
15 gift, the hospital administrator or the administrator's designee shall make
16 reasonable efforts to:

17 1. Discuss the option to make or refuse to make an anatomical gift
18 with the appropriate persons listed in section 36-843, subsection A.

19 2. Obtain the written consent or written refusal to make an anatomical
20 gift from the appropriate persons listed in section 36-843, subsection A.

21 3. Request the making of an anatomical gift pursuant to section
22 36-843. If the request is made by a representative of an organ procurement
23 agency that person shall make reasonable efforts to first consult the
24 administrator of the hospital or the administrator's designee to ensure that
25 the request is made with reasonable discretion and sensitivity to the
26 circumstances of the appropriate surrogate decision maker.

27 C. An entry shall be made in the medical record of the patient stating
28 the name and affiliation of the person who made the request and the name,
29 response and relationship to the patient of the person to whom the request
30 was made.

31 D. Information concerning organ or tissue donation solicited by the
32 hospital at the time of hospital admission does not fulfill a hospital's
33 obligation to request an anatomical gift under this section.

34 E. A hospital, person, REQUESTOR or entity is not subject to civil
35 damages or legal action as a consequence of good faith acts or omissions
36 related to procurement of parts in compliance with this article. All acts
37 and omissions are presumed to be in good faith unless the acts or omissions
38 are done with intent to maliciously cause injury.

39 F. A consent to donate an anatomical gift constitutes a limited waiver
40 of a patient's confidentiality provided by sections 12-2235 and 12-2292 to
41 the extent that the appropriate organ procurement agency may have access to
42 and may obtain a copy of all or any portion of a medical record necessary to
43 determine whether a person is a suitable organ or tissue donor. A hospital
44 shall release copies of the decedent's medical records to an organ
45 procurement agency on request and may charge the organ procurement agency

1 reasonable copying charges. An organ procurement agency shall keep the
2 records confidential and privileged to the same extent as required of the
3 hospital from which they are obtained.

4 G. EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, A CONSENT TO
5 MAKE AN ANATOMICAL GIFT PURSUANT TO THIS SECTION IS VALID ONLY IF A REQUESTOR
6 PROVIDES THE PERSON AUTHORIZED TO GIVE CONSENT WITH A WRITTEN ANATOMICAL GIFT
7 AUTHORIZATION FORM THAT REQUIRES THAT PERSON TO INITIAL EACH SPECIFIC
8 ANATOMICAL GIFT OF ORGAN OR TISSUE THAT PERSON IS AUTHORIZING. CHANGES TO
9 THE AUTHORIZATION FORM MUST BE DOCUMENTED IN WRITING AS REQUIRED BY THIS
10 SECTION. THE FORM SHALL PROVIDE THE PERSON GIVING CONSENT PURSUANT TO
11 SECTION 36-843 NOTICE OF THE OPPORTUNITY TO HAVE A THIRD PERSON PHYSICALLY
12 OR TELEPHONICALLY PRESENT DURING THE INITIALING OF EACH SPECIFIC ANATOMICAL
13 GIFT AND SIGNING OF THE FORM. THE REQUESTOR SHALL DOCUMENT ON THE FORM THE
14 DATE, TIME, LOCATION AND THE THIRD PERSON PRESENT FOR THE EXECUTION AND ANY
15 AMENDMENT OF THE FORM. THE REQUESTOR MUST PROVIDE A COPY OF THE INITIALED
16 FORM TO THE PERSON GIVING CONSENT.

17 H. IF THE AUTHORIZATION FOR AN ANATOMICAL GIFT OCCURS BY TELEPHONE,
18 THE REQUESTOR RECEIVING THE AUTHORIZATION SHALL RECORD THE CONVERSATION. THE
19 REQUESTOR SHALL ALSO SEND A COPY OF THE COMPLETED ANATOMICAL GIFT
20 AUTHORIZATION FORM TO THE PERSON GIVING CONSENT. ON REQUEST, THE REQUESTOR
21 SHALL SEND A TRANSCRIPT OR COPY OF THE RECORDED CONVERSATION TO THE PERSON
22 GIVING CONSENT.

23 I. FOR THE PURPOSES OF THIS SECTION, "REQUESTOR" MEANS A HOSPITAL
24 ADMINISTRATOR OR THE HOSPITAL ADMINISTRATOR'S DESIGNEE, WHICH MAY INCLUDE AN
25 AGENT OF AN ORGAN PROCUREMENT ORGANIZATION OR AN AGENT OF AN ORGAN
26 PROCUREMENT AGENCY.

APPROVED BY THE GOVERNOR MAY 4, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2004.